



Shoshone-Bannock Tribes

PO Box 306
Fort Hall, Idaho 83221

WD 120 2007
29

TRIBAL WATER RESOURCES

Phone: 208-239-4580
Fax: 208-239-4592

August 30, 2007

WD
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SEP 04 2007
DEPARTMENT OF
WATER RESOURCES

Steve Hebdon, Watermaster District 29
190 North Meadow View
Arimo, ID 83214

RE: Notice of User – Tribal Water Right 29-231, Toponce Creek

Dear Mr. Hebdon:

In accordance to the "Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin," Section II.C.13, the Tribes exercises its right to add a point of diversion to its current water right no. 29-231 on Toponce Creek. Specific Elements are outlined as follows:

1. Water Right No. 29-231
2. Place of Use: Allotment 61 or NESW, SENW, Sec 35 Twp 6S Rge 38E for 79.53 acres
3. Ownership Status: Shoshone-Bannock Tribes
4. New POD: NWNESW, Sec 35 Twp 6S Rge 38E (Allotment 61)
NWSWSE, Sec 33 Twp 6S Rge 38E (King Creek Grazing Assoc. Pipeline)
5. Diversion Works: Gravity Pipeline
6. Amount of Water: 1.59 cfs, 259.3 AFY
7. Nature of Use: Irrigation

The King Creek Grazing Association currently holds a lease on Tribal Allotment 61 and for the association to continue to irrigate a transfer or point of diversion needs to be added to the water right as referenced above.

In addition, I have provided copies of the section related to written Notice of Use of a Tribal water right. Should you have any questions, feel free to contact me at 208-239-4580.

Sincerely,

Elese D. Teton
Tribal Water Engineer

CC: file
Jeanette Wolfley, Special Counsel
Sam Hernandez, BIA Technical Services
Ernie Carlsen, IDWR
Cindy Bird, IDWR

Shoshone-Bannock Tribes Water Resources Commission
Alan Oliver, BIA Fort Hall Irrigation
Tim Luke, IDWR
T.J. Budge, Attorney at Law

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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

AUG - 2 1995

By _____ Clerk
Debby C. Clark

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

)
)
) PARTIAL FINAL
) CONSENT DECREE
) DETERMINING THE RIGHTS OF
) THE SHOSHONE-BANNOCK
) TRIBES TO THE USE OF
) WATER IN THE UPPER SNAKE
) RIVER BASIN
)

The District Court of the Fifth Judicial District in and for the County of Twin Falls having entered on November 19, 1987 its COMMENCEMENT ORDER commencing the Snake River Basin adjudication; the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, the State of Idaho, the United States, and certain Idaho Water Users having entered into THE 1990 FORT HALL INDIAN WATER RIGHTS AGREEMENT (hereinafter Agreement) in settlement of claims made by the United States on behalf of the Shoshone-Bannock Tribes to water rights in the Upper Snake River Basin; the Agreement having been submitted to this Court in lieu of a claim as provided by Idaho Code Section 42-1409(6) (1990); the Northside Canal Company having agreed by Resolution dated July 19, 1990, to receive natural flow water from Sand Creek in exchange for making storage water available to the Tribes as required by the Agreement; the United States and the State having agreed upon claims submitted for the non-Indian portion of the Fort Hall Irrigation Project and the Fort Hall Agency, Bureau of Indian Affairs; the Director having filed a

ATTORNEYS OFFICE

AUG 10 1995

River diversion, the dispute shall be resolved by the District Court. Distribution of the water after diversion by the United States shall be in accordance with paragraphs II.C.10.1, II.C.10.4, and II.C.10.5.

.2 IDWR shall provide the Intergovernmental Board, upon request, any Snake River water measurement data or reports gathered or prepared by or for IDWR.

.3 Upon reasonable notice, the State shall provide the Tribes and the United States access to inspect water monitoring devices and diversions on the Snake River where necessary for purposes of the administration of Tribal or Fort Hall Irrigation Project water rights from the water system. The State may accompany the party inspecting the monitoring device or diversion.

→ 13. The Tribes or the United States shall prepare a written Notice of Use of a Tribal water right whenever the Tribes or the United States intend to (1) transfer or lease within the Reservation the right to an existing use, (2) put to use within the Reservation any portion of the Tribal water right which is not in present use, or (3) undertake a combination of (1) and (2).

.1 The Notice of Use shall contain the following information:

- .i The Right Number of the Tribal water right(s) to be changed or used;
 - .ii A legal description of the location where the Tribes or the United States will use the water right;
 - .iii A legal description of the location where the Tribes or the United States will reduce the use of water as a consequence of the transfer and of the point of diversion where the Tribes or the United States will reduce the diversion, if applicable;
 - .iv The ownership status of the land where the Tribal water right will be used;
 - .v The legal description of the new point of diversion;
 - .vi A narrative description of the proposed diversion works such as the size of pumps, ditches, wells, etc.;
 - .vii The amount of water stated in AFY and in CFS to be used on the location described in .ii above; and
 - .viii The nature of use of the Tribal water right at the location described in .ii above.
- .2 Notices involving 25 CFS or more, or 7,500 AFY or more and notices involving any increase in the diversion rate or volume of the water right no. 01-10223 shall be served on each member of the

Intergovernmental Board at least thirty (30) days prior to the transfer, lease or new use.

- .3 Notices involving less than 25 CFS or less than 7,500 AFY shall be served on the Intergovernmental Board annually at the time of the annual report provided for in paragraph II.C.10.8 provided that no notice will be required for transfers, leases or new uses of 0.04 CFS or 2.2 AFY or less.

- 14. The State shall provide written notice to the Tribes and the Fort Hall Agency Superintendent whenever an application for a state water right permit is sought for a water use in the Upper Snake River mainstem, the Blackfoot River basin, and the Portneuf River basin. The report shall contain the following:

- .1 the permit number of the state water right applied for;
- .2 a legal description of the location of the proposed place of use;
- .3 the ownership status of the land where the water will be used, if known;
- .4 the legal description of the proposed point of diversion; and
- .5 a narrative description of the proposed diversion works, such as the size of the pumps, ditches, wells, etc.

- 15. The Tribes reserve the right to develop geothermal ground water on the Reservation having a temperature of at least